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# UNITED STATES PATENT AND TRADEMARK OFFICE

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/052,683	01/18/2002	Roy J. Walker	1112431-0351	3749

7470 7590 12/03/2002

WHITE & CASE LLP  
PATENT DEPARTMENT  
1155 AVENUE OF THE AMERICAS  
NEW YORK, NY 10036

EXAMINER

KING, BRADLEY T

ART UNIT	PAPER NUMBER
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3683

DATE MAILED: 12/03/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/052,683

Applicant(s)

WALKER, ROY J.

Examiner

Bradley T King

Art Unit

3683

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Specification***

The use of the trademark "carbon metallic" has been noted in this application. It should be capitalized wherever it appears and be accompanied by the generic terminology.

Although the use of trademarks is permissible in patent applications, the proprietary nature of the marks should be respected and every effort made to prevent their use in any manner which might adversely affect their validity as trademarks.

### ***Claim Rejections - 35 USC § 112***

Claims 1-9, and 11-15 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 1, 3-4, 6, and 11 recite the trademark "carbon metallic". The use of a trademark to identify the material renders the claim indefinite. See MPEP 2173.05(u).

Claim 7 recites "the burnished finish is a street car brake pad burnished finish". The meaning of this limitation is unclear and fails to have support in the specification.

Claim 14 recites "the friction pad has a at a surface". The meaning of this limitation is unclear.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claim 10 is rejected under 35 U.S.C. 102(b) as being anticipated by Thompson et al (US# 5979615).

Thompson et al discloses all the limitations of the instant claims including: a pad mounting structure having a rail-facing surface 30, a shoulder protruding from the rail-facing surface, and a friction pad 40 mounted to the rail-facing surface and abutting a portion of the shoulder.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-2, 11-13, and 16-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Thompson et al (US# 5979615).

Thompson et al discloses all the limitations of the instant claims with exception to the specific friction material. Thompson et al discloses the use of a carbon based material due to its consistent friction properties and further discloses the desirability of friction materials with high friction coefficients and consistent friction characteristics in

elevator brake application. It is well known in the art to select friction compounds through routine calculation or experimentation to provide a brake element suitable for a given application. The instant specification indicates that carbon metallic friction materials are known in the art (page 3, lines 2-4 indicate the use of standard materials). It would have been obvious to one of ordinary skill in the art at the time the invention was made to select a carbon metallic material as part of routine material selection to provide consistent braking, thereby increasing the safety of the elevator brake.

Regarding claims 2, and 16, Thompson et al lack the disclosure of the claimed equation which describes the coefficient of friction. However, the equation appears to be a characterization of the coefficient of friction for the carbon metallic material. Selection of the same known material will inherently be described by the equation.

Claims 3-9 and 14-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Thompson et al as applied to claim 11 above, and further in view of Chwastiak et al (US# 5693402).

Thompson et al, as modified above, discloses all the limitations of the instant claims with exception to laser burnishing the brake pad. Chwastiak et al teach a method of laser burnishing a brake pad to decrease the brake-in period of the pad so that the pad exhibits a more stable friction coefficient. It would have been obvious to one of ordinary skill in the art at the time the invention was made to laser burnish the pads of Thompson et al as taught by Chwastiak et al to provide a more stable friction coefficient, thereby increasing the consistency and safety of the brake.


**Conclusion**

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Thompson et al (US# 6371261, 5964322) and Sugita et al. All show elevator brakes.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bradley T King whose telephone number is (703) 308-8346. The examiner can normally be reached on 11:00-7:30 M-F.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.

BTK  
December 1, 2002

  
JACK LAVINDER  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3600  
12/02/02